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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,685	02/13/2001	Roy Hays	181138002US1	9957

7590 10/05/2007
LINIAK, BERENATO & WHITE LLC
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EXAMINER

TRAN, PHILIP B

ART UNIT	PAPER NUMBER
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2155

MAIL DATE	DELIVERY MODE
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10/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

46

Office Action Summary	Application No.	Applicant(s)	
	09/782,685	HAYS ET AL.	
	Examiner	Art Unit	
	Philip B. Tran	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>11/27/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to Amendment filed 12 July 2007. No claims have been amended, canceled or added. Again, applicant has filed Declaration under 37 C.F.R. 1.131 & 1.132. Therefore, claims 1-13 are pending for further examination.

Affidavit Filed Under 37 CFR 1.131

2. The declaration of Bill W. Hensley filed on 12 July 2007 under 37CFR 1.131 has been considered but is ineffective to overcome the Harris (6,336,136) reference.

According to the oath and declaration filed on 1 October 2001, there are joint inventors (Roy Hays and Billy W. Hensley) of the inventions claimed in the original and pending claims of the instant patent application. Therefore, one signature provided on the Declaration under 37 CFR 1.131 is insufficient. All signatures of the joint inventors of the subject matter claimed are needed.

In addition, the evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Harris reference to either a constructive reduction to practice or an actual reduction to practice. Applicant has established that conception occurred prior to the filing date of the Harris reference on 12/24/1999. Applicant must then establish diligence from 12/24/1999 until the filing of Applicant's patent application on 9/1/2000. Applicant has failed to establish diligence from 12/24/1999 through 2/29/2000. Thus the affidavit is insufficient to overcome the Harris reference.

Claim Rejections - 35 U.S.C. § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 and 3-13 are rejected under 35 U.S.C. § 102(e) as being anticipated by Harris, U.S. Pat. No. 6,336,136.

Regarding claim 1, Harris teaches a method in a computer system for distributing user information for registered users from the computer system to collection kiosks (= health information system for tracking of users' health information by the health information kiosks) [see Fig. 5 and Col. 6, Lines 45-58], the method comprising:

providing user information for registered users, the user information comprising medical information specific to the registered users (= upon identification of users by entering user name and password, providing users for accessing to health services and information including weight, height and other vital statistics) [see Col. 3, Lines 31-38 and Col. 5, Lines 30-47];

receiving updates to the user information and generating update user information (= each time the user accesses the weight reduction system, additional information can

be added to the pre-stored profile and stored in the main database) [see Col. 3, Lines 31-48]; and

for each of the collection kiosks (= health information kiosks) [see Fig. 5],
receiving a request from the collection kiosk for the generated update user
information and sending to the requesting collection kiosk the update user information
(= requesting for health services and information and providing access to health
services and information) [see Col. 3, Lines 31-48 and Col. 6, Lines 45-58]; and
storing the updated user information at the requesting collection kiosk for
subsequent requests, wherein the collection kiosks use the update user information to
verify whether a user is registered (= storing data on the server) [see Col. 6, Line 62 to
Col. 7, Line 19].

Regarding claim 3, Harris further teaches the received update user information
includes indications of whether to add a registered user, delete a registered user, or
change information relating to a registered user (= upon identification of users by
entering user name and password, providing users for accessing to health services and
information including weight, height and other vital statistics) [see Col. 3, Lines 31-38
and Col. 5, Lines 30-47].

Regarding claim 4, Harris further teach a collection kiosk sends a request for the
generated update user information once a day [see Col. 2, Line 65 to Col. 3, Line 6 and
Col. 6, Lines 9-20].

Regarding claim 5, Harris further teaches the user information includes a user identifier and a password (= user name and password) [see Col. 3, Lines 31-38].

Regarding claim 6, Harris teaches a method in a collection kiosk for retrieving updated user information (= health information system for tracking of users' health information by the health information kiosks) [see Fig. 5 and Col. 6, Lines 45-58]:

providing user information for registered users, the user information comprising medical information specific to the registered users (= upon identification of users by entering user name and password, providing users for accessing to health services and information including weight, height and other vital statistics) [see Col. 3, Lines 31-38 and Col. 5, Lines 30-47];

sending a request for updated user information and in response to sending the request, receiving the updated user information (= requesting for health services and information and providing access to health services and information) [see Col. 3, Lines 31-48 and Col. 6, Lines 45-58];

updating the provided user information for the registered user in accordance with the received updated user information so that the collection kiosk can verify whether a user of the collection kiosk is registered (= each time the user accesses the weight reduction system, additional information can be added to the pre-stored profile and stored in the main database) [see Col. 3, Lines 31-48]; and

storing the updated user information at the collection kiosk for subsequent requests (= storing data on the server) [see Col. 6, Line 62 to Col. 7, Line 19].

Regarding claim 7, Harris teaches an information collection system (= health information system) [see Abstract and Fig. 5 and Col. 6, Lines 45-58] comprising:

a central computer system for a web site (= health information server), the central computer system providing a repository for the information (= storage of personal history information in the main database) [see Col. 1, Line 65 to Col. 2, Line 12 and Col. 6, Line 62 to Col. 7, Line 19], registering users of the web site and accessing the information (= upon identification of users by entering user name and password, providing users for accessing to health services and information including weight, height and other vital statistics) [see Col. 3, Lines 31-38 and Col. 5, Lines 30-47]; and

a plurality of collection kiosks (= health information kiosks) [see Fig. 5] for collecting information about users for verifying whether a user is registered at the web site (= verifying user by authentication with user name and password) [see Col. 3, Lines 31-38], and for sending the collected information to the central computer system when the user is registered (= sending the vital information for the user from the client computer to the server [see Col. 6, Lines 9-20 and Col. 6, Line 62 to Col. 7, Line 19].

Regarding claim 8, Harris further teaches the information is medical information (= tracking of health reading including blood pressure, heart rate and weight) [see Col. 2, Lines 13-36 and Col. 6, Lines 45-52].

Regarding claim 9, Harris teaches a computer-based method for collecting medical information of users of a web site (= health information system for tracking of users' health information by the health information kiosks) [see Fig. 5 and Col. 6, Lines 45-58], the method comprising:

registering the users at the web site when information about a user is collected at one of a plurality of collection kiosks, determining whether the user is registered at the website (= upon identification of users by entering user name and password, providing users for accessing to health services and information including weight, height and other vital statistics) [see Col. 3, Lines 31-38 and Col. 5, Lines 30-47]; and

when registered, sending the collected information to a computer system so that the collected information is accessible to the user through the web site (= sending the vital information for the user from the client computer to the server [see Col. 6, Lines 9-20 and Col. 6, Line 62 to Col. 7, Line 19] wherein user can access information via the Internet [see Col. 1, Line 65 to Col. 2, Line 12]).

Regarding claim 10, Harris further teaches a collection kiosk automatically sends a request for the generated update user information periodically [see Col. 2, Line 65 to Col. 3, Line 6 and Col. 6, Lines 9-20].

Regarding claims 11-12, Harris further teaches sending a request for updated information is automatic and performed periodically or automatic and performed daily [see Col. 2, Line 65 to Col. 3, Line 6 and Col. 6, Lines 9-20].

Regarding claim 13, Harris further teaches the information comprising medical information specific to the registered users (= upon identification of users by entering user name and password, providing users for accessing to health services and information including weight, height and other vital statistics) [see Col. 3, Lines 31-38 and Col. 5, Lines 30-47] and the central computer system further is for receiving updates to the user information from the collection kiosks and generating update user information (= each time the user accesses the weight reduction system, additional information can be added to the pre-stored profile and stored in the main database) [see Col. 3, Lines 31-48]; and for each of the collection kiosks (= health information kiosks) [see Fig. 5], receiving a request from the collection kiosk for the generated update user information and sending to the requesting collection kiosk the update user information (= requesting for health services and information and providing access to health services and information) [see Col. 3, Lines 31-48 and Col. 6, Lines 45-58].

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harris, U.S. Pat. No. 6,336,136 in view of McMillan, U.S. Pat. No. 5,826,267.

Regarding claim 2, Harris does not explicitly teach the collection kiosks operate as FTP clients and the computer system operates as an FTP server.

However, McMillan, in the same field of client-server architecture with information kiosk endeavor, discloses the use of File Transfer Protocol (FTP) known as one of Internet client/server protocol [see McMillan, Col. 2, Lines 1-15]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the implementation of File Transfer Protocol (FTP), disclosed by McMillan, into the system of registry information to collect information from kiosks for storing in the central server disclosed by Harris, in order to enable the user to efficiently upload and download files to and from a remote FTP site over the network such as the Internet.

Response to Arguments

7. Applicant's arguments have been fully considered but they are not persuasive because of the following reasons: Applicant has not provided any arguments about Prior Art except those regarded the 1.131 Affidavit. As discussed above, the affidavit is insufficient to overcome the Harris reference.

Therefore, the examiner asserts that the cited prior arts teach or suggest the subject matter recited in independent claims. Dependent claims are rejected at least by virtue of their dependency on independent claims and by other reasons set forth above. Accordingly, claims 1-13 are respectfully rejected as shown above.

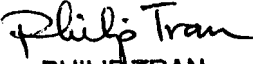
Conclusion

8. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CAR 1.136(a).

A SHORTENED STATUTORY PERIOD FOR REPLY TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE MAILING DATE OF THIS ACTION. IN THE EVENT A FIRST REPLY IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 CAR 1.136(A) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT, HOWEVER, WILL THE STATUTORY PERIOD FOR REPLY EXPIRE LATER THAN SIX MONTHS FROM THE MAILING DATE OF THIS FINAL ACTION.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Tran whose telephone number is (571) 272-3991. The Group fax phone number is (571) 273-8300. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar, can be reached on (571) 272-4006.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


PHILIP TRAN
PRIMARY EXAMINER
Art Unit 2155
Sept 28, 2007